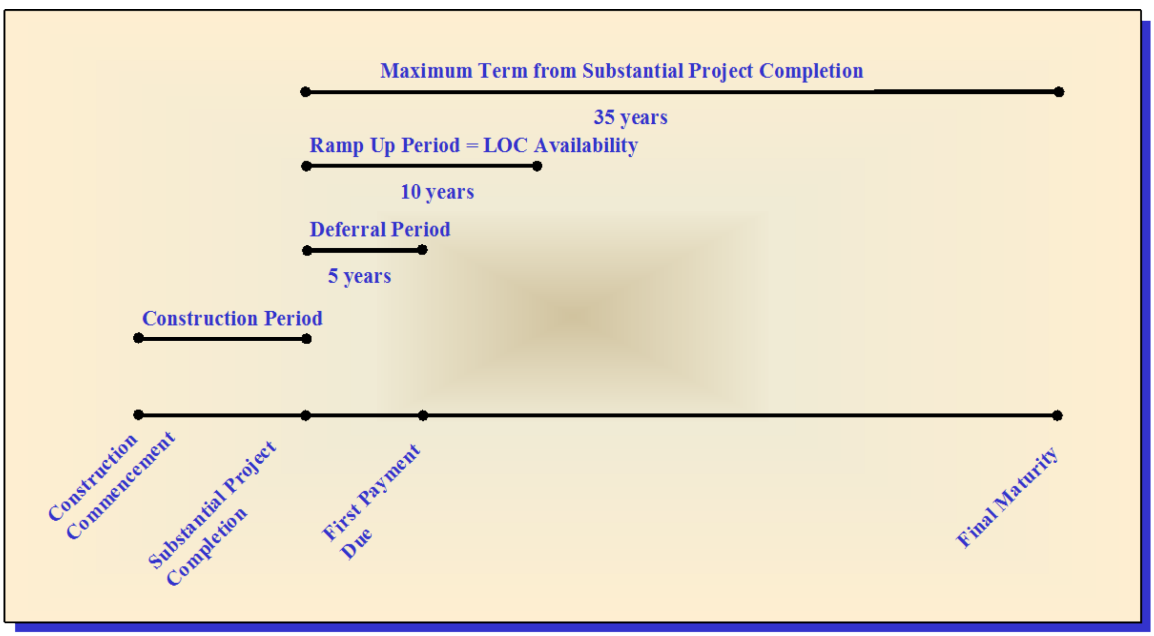
Chapter 2: Terms and Funding of Credit Instruments

The TIFIA Program's secured (direct) loans, loan guarantees, and standby lines of credit may offer more flexible repayment terms and more favorable interest rates compared to other lenders. This chapter summarizes the terms that apply generally to TIFIA credit assistance and describes the major features of each credit instrument. A section on loan repayment and prepayment structuring provides information on financing structures and related repayment issues that may arise during negotiations. The chapter also provides an explanation of the funding controls that govern the amount of credit assistance available under the TIFIA Program.

Section 2-1
Summary of Basic Terms for TIFIA Credit Assistance

Certain features of TIFIA credit assistance are the same regardless of whether the credit instrument is a secured loan, loan guarantee, or line of credit. For example, the maximum maturity of all TIFIA credit instruments is the lesser of: (i) 35 years after a project's substantial completion or (ii) the useful life of the project being financed by TIFIA.[11] The DOT, at its discretion, has the ability to defer the first TIFIA payment up to five years after substantial completion, depending on the needs of the project.[12] Exhibit 2-A provides an illustrative TIFIA repayment structure for any of the three credit instruments.

Exhibit 2-A: Illustrative TIFIA Repayment Structure as Permitted by Statute



[11] 23 U.S.C. §§603(b)(5), (e)(2) and 604(c)(2)(B).

[12] 23 U.S.C. §603(c)(2), (c)(3) and (e)(2). For standby lines of credit, repayment can commence up to 15 years after substantial completion. 23 U.S.C. §604(c)(2)(A).

The TIFIA credit instrument can be junior (*i.e.*, subordinate) to the project's other debt obligations in the priority of its lien on the project's cash flow. However, in the event of bankruptcy, insolvency, or liquidation, the DOT is required by statute to have a parity lien with respect to the project's senior creditors.[13] The credit agreement will clearly specify the DOT's interest in the pledged security relative to other creditors.[14]

The TIFIA statute places two other important limits on the Federal Government's exposure to credit risk. First, TIFIA credit assistance is limited to no more than 49 percent of reasonably anticipated eligible project costs for a TIFIA secured loan or loan guarantee and no more than 33 percent of reasonably anticipated eligible project costs for a TIFIA standby line of credit.[15] This is designed to ensure that the DOT shares the credit risk with other participants. Second, the applicant must obtain two investment-grade ratings (Baa3/BBB- or higher) on the senior debt obligations and two ratings on the TIFIA credit instrument, both from a Credit Rating Agency, in order to execute a TIFIA credit agreement.[16] If TIFIA is the senior and/or the only debt in the project, then it must receive two investment grade ratings.[17] If the total amount of debt in the project is less than $75 million, then the applicant must obtain only one investment-grade rating on the senior obligations and one rating on the TIFIA credit instrument from a Credit Rating Agency.[18] Chapter 3 provides further details on eligible project costs and credit ratings.

Section 2-2
TIFIA Credit Instruments

The main features of TIFIA secured loans, loan guarantees, and lines of credit are summarized below. These features are established by statute. This section also addresses the rules that govern the setting of interest rates, disbursement of funds, and repayment of the TIFIA debt.

Secured Loans (23 U.S.C. §603)

A TIFIA secured loan is a debt obligation involving the DOT as the lender and a non-Federal entity as the borrower. Actual terms and conditions will be negotiated between the DOT and the borrower, but the general characteristics include:

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[13] 23 U.S.C. §§603(b)(6), (e)(2) and 604(b)(8). However, as discussed in the following footnote, this nonsubordination requirement may be waived under certain specified circumstances.

[14] MAP-21 permits the waiver of TIFIA's nonsubordination requirement in connection with secured loans or lines of credit for public agency borrowers having senior bonds under preexisting indentures, so long as: (i) the borrower is a public agency; (ii) the TIFIA credit instrument receives a rating within the A category or higher from at least two Credit Rating Agencies; (iii) the revenue pledge is not affected by project performance, such as a tax-backed revenue pledge or a system pledge; and (iv) TIFIA is financing 33 percent or less of the eligible project costs. However, in such cases, the maximum credit subsidy to be paid by the Federal Government may not be more than 10 percent of the principal amount of the loan, and the obligor is responsible to pay any remaining subsidy cost. 23 U.S.C. §§603(b)(6)(B) and 604(b)(8)(B).

[15] 23 U.S.C. §§603(b)(2) and 604(b)(2). As noted below, TIFIA secured loans provided to date have only covered up to 33 percent of reasonably anticipated eligible project costs. Applicants requesting assistance in excess of this amount must provide a rationale for such additional assistance.

[16] 23 U.S.C. §602(a)(2)(A).

[17] 23 U.S.C. §602(a)(2)(B).

[18] 23 U.S.C. §602(a)(2)(A)(iv) and (a)(2)(B).

- Use of Proceeds. The proceeds of a secured loan must be used either to finance eligible project costs or to refinance: (i) interim construction financing of eligible project costs; (ii) existing Federal credit instruments for rural infrastructure projects; or (iii) long-term project obligations or Federal credit instruments if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of an eligible project.[19] In the case of refinancing interim construction financing, the DOT loan may refinance existing debt no later than one year following substantial completion of the project.[20]

- Amount. The principal amount of a secured loan (in combination with other TIFIA credit assistance, if any) may not exceed 49 percent of the reasonably anticipated eligible project costs.[21] To date, due to the 33 percent cap provided in surface transportation authorizations prior to MAP-21, TIFIA secured loans have only covered up to 33 percent of reasonably anticipated eligible project costs in order to ensure other investors are sharing in project costs and associated risks. While MAP-21 expanded the percent of costs TIFIA can fund to 49 percent, applicants requesting assistance in excess of this amount must provide a strong rationale for requiring additional assistance. If the project is supported by debt senior to the TIFIA lien, the TIFIA credit instrument must be secured by the same revenues pledged to the senior debt. If the TIFIA secured loan is rated below investment grade, then the amount of the TIFIA loan may not exceed the amount of the senior debt.[22]

- Interest Rate. The interest rate on a secured loan will be equal to or greater than the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement.[23] The DOT identifies the Treasury rates through use of the daily rate tables published by the Bureau of the Public Debt for the State and Local Government Series (SLGS) investments. Adding one basis point to the SLGS rates produces the estimated average yields on comparable Treasury securities. The SLGS tables can be found on-line at https://www.treasurydirect.gov/GA-SL/SLGS/selectSLGSDate.htm. The daily TIFIA interest rate can be found on the TIFIA web site at http://www.fhwa.dot.gov/ipd/tifia. Interest begins to accrue on TIFIA proceeds immediately upon disbursement of funds to the borrower.

  MAP-21 allows for secured loans to be provided to rural infrastructure projects at a discounted interest rate of one-half of the Treasury Rate.[24] The reduced interest rate is only available to secured loans for rural infrastructure projects where the subsidy cost of such loans is funded out of amounts set aside from the TIFIA Program's annual budget authority specifically for such reduced interest rate secured loans.[25] MAP-21 allows the TIFIA Program to set aside up to 10 percent of its annual budget authority to fund the subsidy costs of secured loans to rural infrastructure projects at the reduced interest rate.[26]

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[19] 23 U.S.C. §603(a)(1).
[20] 23 U.S.C. §603(a)(2).
[21] 23 U.S.C. §603(b)(2). Note that the maximum amount is limited to 33 percent where the nonsubordination requirement is waived, as described in footnote 14 above.
[22] 23 U.S.C. §603(b)(2).
[23] 23 U.S.C. §603(b)(4)(A).
[24] 23 U.S.C. §603(b)(4)(B)(i).
[25] 23 U.S.C. §603(b)(4)(B)(ii).
[26] 23 U.S.C. §608(a)(3)(A).

In reviewing Letters of Interest for rural infrastructure projects, the DOT may prioritize rural infrastructure projects to receive the reduced rate based on the project's: (i) location outside of an urbanized area (as defined in Section 101(a)(34) of title 23), (ii) alignment with MAP-21's reduced total minimum eligible project cost requirement of $25 million for rural infrastructure projects, and (iii) readiness to proceed. MAP-21 requires that any amounts set aside in a fiscal year to fund the subsidy cost of secured loans to rural infrastructure projects at the reduced interest rate that have not been obligated by June 1 of such fiscal year must be made available to fund projects not receiving the reduced interest rate to the extent sufficient funds are not otherwise available.[27]

In addition, MAP-21 allows project sponsors to buydown the interest rate on a secured loan in the event the rate has increased between the date on which the project sponsor submitted its complete application and the date on which the secured loan is executed.[28] Project sponsors can reduce the interest rate by way of a limited buydown up to 1 1/2 percentage points (150 basis points) or the amount of the increase in the interest rate, whichever is less.

- Timing of Disbursements. The DOT will disburse funds as often as monthly, on a reimbursement basis, as costs are incurred for eligible project purposes.[29] The credit agreement will specify a draw schedule, which may be amended if necessary.

- Maturity. The final maturity date of a secured loan must be no later than 35 years after the date of substantial completion of the project or the useful life of the project, whichever is less.[30]

- Repayment Terms. Scheduled repayments must commence no later than five years after the date of substantial completion of the project.[31] Debt service will be structured based on project economics and risk to the DOT.[32] Debt service payments are scheduled semi-annually.

- Deferrals. In the event revenues are insufficient to meet scheduled TIFIA loan payments, the DOT, in its sole discretion, may allow payment deferrals. Any such deferrals shall be contingent on the project's meeting requirements established by the Secretary, including standards for reasonable assurance of repayment. There can be no assurance the Secretary will exercise this authority, however, so borrowers should only agree to a debt service schedule they are confident they can meet.[33]

[27] 23 U.S.C. §608(a)(3)(B).
[28] 23 U.S.C. §§601(a)(8) and 603(b)(4)(C). In addition, a limited buydown is available in the event a borrower has entered into a master credit agreement and the interest rate has increased between the date on which the master credit agreement was executed and the date on which an underlying secured loan is entered into in connection with such master credit agreement.
[29] 23 U.S.C. §603(a)(1).
[30] 23 U.S.C. §603(b)(5).
[31] 23 U.S.C. §603(c)(2).
[32] 23 U.S.C. §603(c)(1).
[33] 23 U.S.C. §603(c)(3).

- Prepayment Conditions. In general, a secured loan may be prepaid in whole or in part at any time without penalty.[34]

- Lien Priority. The TIFIA lien on pledged revenues can be subordinated to those of senior lenders to the project except in the event of bankruptcy, insolvency, or liquidation of the obligor. In such an instance, the TIFIA lien would be on par with the lien of the project's senior creditors.[35] This provision will be implemented by way of incorporation into the TIFIA credit agreement and any other appropriate financing agreements entered into at the time of execution of the TIFIA credit agreement. As noted in Section 2-1 above, this provision can be waived under certain circumstances for public agency borrowers having senior bonds under preexisting indentures so long as certain conditions are met.[36]

Loan Guarantees (23 U.S.C. §603(e))

A TIFIA loan guarantee is a pledge by the DOT to pay a third-party lender all or part of the debt service on a borrower's debt obligation. The DOT will seek to recover from the borrower all funds paid to the guaranteed lender, pursuant to a reimbursement agreement executed simultaneously with the loan guarantee.

By statute (23 U.S.C. §601(a)(5)), the guaranteed lender must be a "non-Federal qualified institutional buyer" as defined in 17 CFR §230.144A(a), including qualified retirement plans and governmental plans. Prospective applicants and lenders should contact the DOT with any questions about what constitutes a "non-Federal qualified institutional buyer."

The DOT may give preference to applications for loan guarantees rather than other forms of credit assistance.[37] This preference is consistent with Federal policy that, when Federal credit assistance is necessary to meet a Federal objective, loan guarantees should be favored over direct loans, unless attaining the Federal objective requires a subsidy deeper than can be provided by a loan guarantee. Applicants requesting only a direct loan and/or a line of credit are required to specify in their application how the plan of finance for the project would be impacted if TIFIA credit assistance was instead provided in the form of a loan guarantee.

Characteristics of a guaranteed loan include:

- Use of Proceeds. The proceeds of a guaranteed loan must be used either to finance eligible project costs or to refinance: (i) interim construction financing of eligible project costs; (ii) existing Federal credit instruments for rural infrastructure projects; or (iii) long-term project obligations or Federal credit instruments if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of an eligible project.[38] In the case of refinancing interim construction financing, the DOT loan may

[34] 23 U.S.C. §603(c)(4).
[35] 23 U.S.C. §603(b)(6).
[36] 23 U.S.C. §603(b)(6)(B).
[37] 49 C.F.R. §80.15(c).
[38] 23 U.S.C. §603(a)(1) and (e)(2).

refinance existing debt no later than one year following substantial completion of the project.[39]

- Amount. The principal amount of a DOT loan guarantee, in combination with any other TIFIA credit assistance, may not exceed 49 percent of the reasonably anticipated eligible project costs.[40] To date, TIFIA credit assistance has only covered up to 33 percent of reasonably anticipated eligible project costs and applicants requesting assistance in excess of this amount must provide a rationale for such additional assistance.

- Interest Rate. The interest rate on a guaranteed loan will be negotiated between the guaranteed lender and the borrower, subject to consent from the DOT.[41] Interest payments on a guaranteed loan are subject to Federal income taxation.

- Maturity. The final maturity date of the guaranteed loan must be no later than 35 years after the date of substantial completion of the project or the useful life of the project, whichever is less.[42]

- Repayment Terms. Scheduled repayments to the guaranteed lender must commence no later than five years after the date of substantial completion of the project.[43] Level debt service may not be required for project financings where the pledged revenues are projected to increase over time.[44]

- Deferrals. In the event that revenues are insufficient to meet scheduled loan payments, the DOT may, in its sole discretion, consent to payment deferrals and a rescheduling of the guaranteed debt service. Approval of any such payment deferrals shall be contingent on the project's meeting requirements established by the Secretary, including standards for reasonable assurance of repayment. There can be no assurance the Secretary will exercise this authority, however, so borrowers should negotiate a debt service schedule they are confident they can meet.[45]

- Prepayment Conditions. The prepayment features on a guaranteed loan will be negotiated between the guaranteed lender and the borrower, subject to the consent of the DOT.[46]

- Default Feature. In the event of an uncured borrower payment default, the guaranteed lender will receive payment from the DOT for the guaranteed payment due.[47] The DOT will seek recovery from the borrower of all funds advanced, pursuant to a reimbursement agreement executed simultaneously with the loan guarantee.

[39] 23 U.S.C. §603(a)(2) and (e)(2).
[40] 23 U.S.C. §603(b)(2) and (e)(2).
[41] 23 U.S.C. §603(e)(2).
[42] 23 U.S.C. §603(b)(5) and (e)(2).
[43] 23 U.S.C. §603(c)(2) and (e)(2).
[44] 23 U.S.C. §603(c)(1) and (e)(2).
[45] 23 U.S.C. §603(c)(3) and (e)(2).
[46] 23 U.S.C. §603(e)(2).
[47] 23 U.S.C. §601(a)(9).

- Lien Priority. The TIFIA lien on pledged revenues can be subordinated to those of senior lenders to the project except in the event of bankruptcy, insolvency, or liquidation of the obligor. In such an instance, the TIFIA lien would be on par with the lien of the project's senior creditors.[48] This provision will be implemented by way of incorporation into the TIFIA loan guarantee agreement and any other appropriate financing agreements entered into at the time of execution of the TIFIA loan guarantee agreement. As noted above, this provision can be waived under certain circumstances for public agency borrowers having senior bonds under preexisting indentures so long as certain conditions are met.[49] In the event of a draw on the DOT guarantee, the guaranteed lender remains in a senior position if not repaid in full by the DOT, and the DOT loan for the amount of all such draws becomes a junior lien.

Lines of Credit (23 U.S.C. §604)

A TIFIA line of credit provides a contingent loan that may be drawn upon after substantial completion of the project to supplement project revenues during the first 10 years of the project's operations.[50] The DOT will disburse funds only under certain conditions, which will be specified in the TIFIA credit agreement.[51]

Characteristics of a line of credit include:

- Use of Proceeds. The proceeds from a draw on a line of credit may be used only to pay debt service on project obligations (other than a TIFIA credit instrument) issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and/or costs associated with Federal or state environmental restrictions arising after the transaction closed.[52]

- Amount. The total principal amount of a line of credit may not exceed 33 percent of the reasonably anticipated eligible project costs.[53] The total combined TIFIA credit assistance for a project receiving a TIFIA line of credit plus a secured loan or loan guarantee may not exceed 49 percent of eligible project costs.[54]

- Condition Precedent for Draws. A draw may be made only if revenues from the project are insufficient to pay the costs enumerated above in "Use of Proceeds." Reserve funds need not be tapped prior to a TIFIA draw.[55]

- Availability. A line of credit may be available for a period of 10 years following substantial completion of the project.[56]

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[48] 23 U.S.C. §603(b)(6) and (e)(2).
[49] 23 U.S.C. §603(b)(6)(B).
[50] 23 U.S.C. §604(a)(1) and (b)(6).
[51] 23 U.S.C. §604(a)(1) and (b)(1).
[52] 23 U.S.C. §604(a)(2).
[53] 23 U.S.C. §604(b)(2).
[54] 23 U.S.C. §604(b)(10).
[55] 23 U.S.C. §604(b)(3)(B).
[56] 23 U.S.C. §604(b)(6).

- Interest Rate. The interest rate on a direct loan resulting from a draw on a line of credit will be equal to or greater than the yield on a 30-year U.S. Treasury security on the date of the execution of the line of credit agreement.[57] The DOT identifies the Treasury rates through use of the daily rate tables published by the Bureau of the Public Debt for the State and Local Government Series investments. Adding one basis point to the SLGS rates produces the estimated average yields on comparable Treasury securities. The SLGS tables can be found on-line at The SLGS tables can be found on-line at https://www.treasurydirect.gov/GA-SL/SLGS/selectSLGSDate.htm. The daily TIFIA interest rate can be found on the TIFIA web site at http://www.fhwa.dot.gov/ipd/tifia. Interest accrual on TIFIA proceeds begins immediately upon disbursement of funds to the borrower.

- Maturity. The final maturity date of a direct loan resulting from a draw on a line of credit must be no later than 35 years after the date of substantial completion of the project or the useful life of the project, whichever is less.[58]

- Repayment Terms. Scheduled repayments of a draw on a line of credit must commence no later than five years after the end of the 10-year period of availability and be fully repaid no later than 25 years after the end of the 10-year period of availability.[59] Level debt service is not required.[60] Debt service payments should be scheduled semi-annually.

- Prepayment Conditions. A direct loan resulting from a draw on a line of credit may be prepaid in whole or in part at any time without penalty.

- Lien Priority. The TIFIA lien on pledged revenues can be subordinated to those of senior lenders to the project except in the event of bankruptcy, insolvency, or liquidation of the obligor. In such an instance, the TIFIA lien would be on par with the lien of the project's senior creditors.[61] This provision will be implemented by way of incorporation into the TIFIA credit agreement and any other appropriate financing agreements entered into at the time of execution of the TIFIA credit agreement. As noted above, this provision can be waived under certain circumstances for public agency borrowers having senior bonds under preexisting indentures so long as certain conditions are met.[62]

Section 2-3
TIFIA Loan Repayment and Prepayment Structuring

The TIFIA statute gives the DOT discretion to defer the commencement of debt service repayments for up to five years after substantial completion.[63] The DOT also has the

[57] 23 U.S.C. §604(b)(4).
[58] 23 U.S.C. §604(c)(2)(B).
[59] 23 U.S.C. §604(c)(2).
[60] 23 U.S.C. §604(c)(1).
[61] 23 U.S.C. §604(b)(8)(A).
[62] 23 U.S.C. §604(b)(8)(B).
[63] 23 U.S.C. §603(c)(2) and (e)(2). Debt service payments on direct loans issued under a line of credit can be deferred for up to fifteen years after substantial completion. 23 U.S.C. §604(c)(2)(A).

flexibility to structure a debt service schedule so that repayment is aligned with projected cash flows.[64]

1. Scheduled TIFIA Debt Service. Projects are not entitled to debt service deferral. In exercising its discretion to defer the commencement of debt service repayments, the DOT will evaluate the economics and risks to the DOT of each project on a project-by-project basis to determine an appropriate repayment schedule.[65] Factors in this assessment include:

   - *Availability of revenues for debt service*. Some projects are not true "project financings," but rely on tax or other non-project revenues, which may be available for debt service even before the project is completed. In such cases, the DOT is likely to require commencement of debt service upon substantial completion, although the DOT may require commencement of debt service during construction for a project not financed with user revenues. Projects more likely to be favorably considered for interest deferral and backloading of principal are those where project revenues support the financing and borrowers anticipate a long ramp-up period.

   - *Amortization of senior debt*. When the financial plan includes other project debt senior to TIFIA, the DOT expects that the capitalized interest period for the project's senior debt is likely to end before the capitalized interest period for the TIFIA loan. Thus, the DOT may agree to continue deferring an appropriate amount of its loan interest to ensure that revenue is adequate to pay full interest on the senior debt. However, the DOT will not increase its investment in a project by deferring interest when other creditors are withdrawing their investment. Therefore, the DOT's policy is not to permit any amortization of a project's senior debt while TIFIA interest is being deferred.

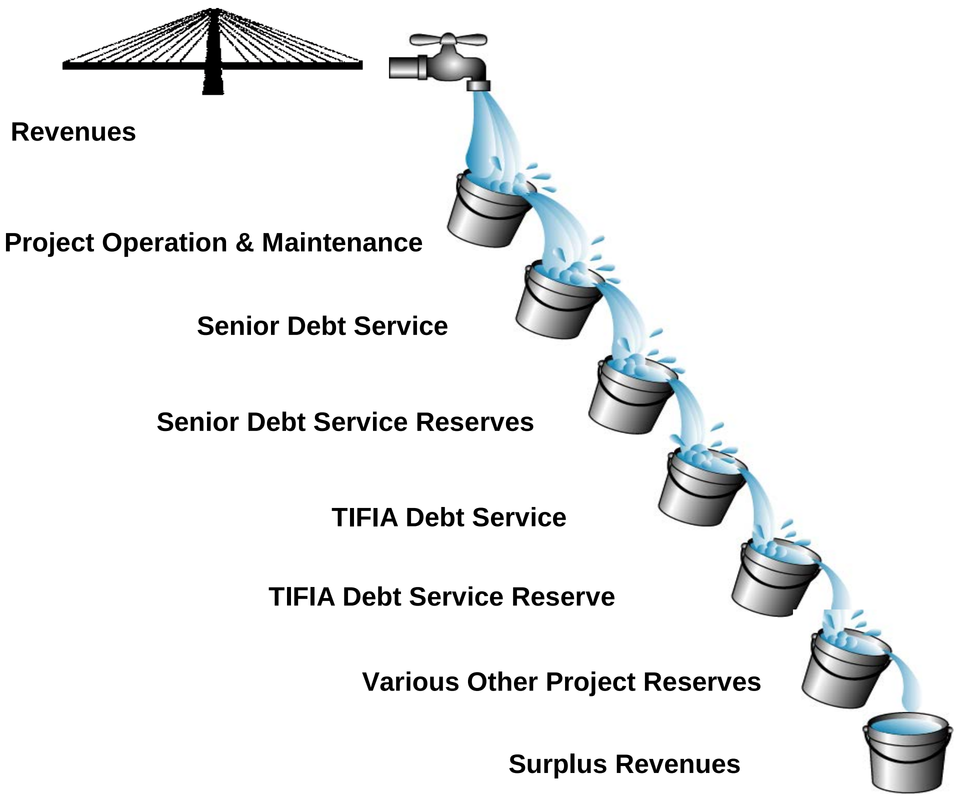
   - *Returns on equity*. The DOT requires equity investors, who will be subordinate to TIFIA, to defer commencement of their return. The DOT will not permit any distribution to equity until all currently accruing TIFIA interest is paid. The DOT will negotiate, on a project-by-project basis, the priority and relationship of TIFIA repayment and equity distributions.

2. Prepayment and Refinancing. Although TIFIA provides long-term financing, the DOT does not intend that TIFIA become part of a project's permanent capital structure where a strong revenue stream and vigorous project economics permit prepayment or substitution of the TIFIA credit instrument. The DOT will negotiate a debt service schedule that provides a high probability of repayment and avoidance of default. In return, the DOT typically requires that excess revenues – not needed for project purposes – be applied to prepayment of the TIFIA loan. The DOT also will seek to structure the financing in a way that encourages borrowers to replace the TIFIA loan with capital markets debt at such time as project economics support refinancing.

[64] 23 U.S.C. §§603(c)(1), (c)(3), (e)(2) and 604(c)(1).
[65] 23 U.S.C. §§603(c)(1), (c)(3), (e)(2) and 604(c)(1).

Exhibit 2-B shows a typical flow of funds for a project that includes both senior and subordinate TIFIA debt. The chart demonstrates how senior debt service (as well as reserve accounts for the benefit of senior bondholders) generally accumulates revenues ahead of TIFIA debt service and reserve accounts for TIFIA debt service, if applicable.

Exhibit 2-B: Example of Project Flow of Funds



Section 2-4
TIFIA Taxation Issues

With regard to the TIFIA Program, the TEA 21 Conference Report states:

> "The Conference recognizes that the Congress enacted the Deficit Reduction Act of 1984 provision prohibiting the combination of Federal guarantees with tax-exempt debt, because of concerns that such a double-subsidy could result in the creation of a 'AAA' rated security superior to U.S. Treasury obligations. Accordingly, any project loan backed by a loan guarantee as provided in TIFIA must be issued on a taxable basis….
>
> "...The Conferees are aware that present Federal income tax law prohibits the use of direct or indirect Federal guarantees in combination with tax-exempt debt (section 149(b) of the Internal Revenue Code of 1986). The TIFIA provisions of the conference agreement do not override or otherwise modify this provision of the Code."

The DOT urges all applicants, and particularly those intending to use tax-exempt bonds in connection with TIFIA loans or lines of credit, to consult with the Internal Revenue Service, the U.S. Department of the Treasury, and/or their bond counsel.

Section 2-5
TIFIA Program Funding

The TIFIA Program is governed by the Federal Credit Reform Act of 1990 (FCRA), which requires the DOT to establish a capital reserve, or "subsidy amount," to cover expected credit losses before it can provide TIFIA credit assistance.[66] Congress places limits on the annual subsidy amount available.

MAP-21 authorizes $750 million in FY 2013 and $1 billion in FY 2014 in TIFIA budget authority from the Highway Trust Fund to pay the subsidy cost of TIFIA credit assistance.[67] Additional funds may also be available from budget authority carried over from previous fiscal years. Any budget authority not obligated in the fiscal year for which it is authorized remains available for obligation in subsequent years.[68] However, if the cumulative unobligated and uncommitted balance of funding available as of April 1 of any fiscal year, beginning in FY 2014, is more than 75 percent of the amount made available for such fiscal year, then the Secretary must distribute the amount in excess of 75 percent of such amount among the States.[69]

The TIFIA budget authority is subject to an annual obligation limitation that may be established in appropriations law. Like all funds subject to the annual Federal-aid obligation ceiling, the amount of TIFIA budget authority available in a given year may be less than the amount authorized for that fiscal year.

After reductions for administrative expenses and application of the annual obligation limitation, TIFIA will have approximately $690 million available in FY 2013 and $920 million in FY 2014 to provide credit subsidy support to projects. Although dependent on the individual risk profile of each credit instrument, collectively, and based on historic subsidy costs, this budget authority could support approximately $6.9 billion in lending capacity in FY 2013 and $9.2 billion in lending capacity in FY 2014. Given statutory changes in the TIFIA Program under MAP-21 and the need to calculate credit subsidies on a project-by-project basis, actual TIFIA lending capacity could vary.

The amount of TIFIA budget authority available in a given year is subject to several factors, as described below.

- Federal-aid Highway Obligation Limitation. This obligation limitation pertains to most of the programs funded from the Federal Highway Trust Fund (including the TIFIA Program) and is determined through the appropriations process each year. As with

[66] 2 U.S.C. §661c(b).
[67] MAP-21, Pub. L. No. 112-141, §1101(a)(2), (126 Stat. 607) (2012).
[68] 23 U.S.C. §608(a)(5).
[69] 23 U.S.C. §608(a)(4)(A).

appropriations processes for other Federal programs, this limitation typically reduces the total funds available for obligation in the year ahead. A typical limitation reduces obligation authority between 10 percent and 15 percent.

- Program Administration Expenses. The TIFIA statute authorizes the DOT to use up to 0.5 percent of authorized budget authority for each fiscal year to administer the TIFIA Program.[70] In addition, the statute authorizes the DOT to collect and spend fees to cover expenses related to reviewing, negotiating, monitoring and servicing credit agreements.[71]

- Carry-over Resources. Any budget authority made available but not obligated in previous fiscal years may carry over and increase the amount of budget authority available in a given fiscal year.[72]

[70] 23 U.S.C. §608(a)(6).
[71] 23 U.S.C. §605(b).
[72] 23 U.S.C. §608(a)(5).